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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,019	07/15/2003	Christopher T. Dohl	33979	8613
23589	7590	11/28/2005	EXAMINER	
HOVEY WILLIAMS LLP 2405 GRAND BLVD., SUITE 400 KANSAS CITY, MO 64108			TRAN LIEN, THUY	
			ART UNIT	PAPER NUMBER

1761

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,019

Applicant(s)

DOHL ET AL.

Examiner

Lien T. Tran

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-9, 12-14, 16-19, 20-23, 25, 28, 31-33, 35-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Anfinsen.

Anfinsen discloses a wheat-containing bakery product comprising 10-60% vital wheat gluten, standard bread flour, 5-10% hydrolyzed wheat protein, 5-60% carbohydrate, a moisture managing agent selected from soy protein isolate and caseinate. The carbohydrate component include non-digestible carbohydrate such as resistant starch. The product comprises from about 5-40% non-digestible carbohydrate. The product includes a leavening agent such as chemical leavening agent and yeast. The product also contains other protein materials such as whey, milk protein, egg protein, hydrolyzed protein and mixture thereof. (see page 2, paragraph 0017, page 3 paragraphs 0023, 0028, page 4 paragraphs 0033, 0034, 0040, 0041, 0043, page 5 paragraphs 0051, 0052 and the examples.)

Anfinsen discloses all the limitations claimed. Baker percent is based on 100% flour; the percent of protein in Anfinsen is based on 100% dough composition. Thus, the amounts of protein and resistant starch fall within the ranges claimed. Since Anfinsen

discloses vital wheat gluten which is the same protein as claimed, it is inherent the protein content is the same as claimed.

Claims 5,15,24,34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anfinzen.

Anfinzen does not disclose the chemical leavening agent claimed.

Anfinzen teaches the dough includes chemical leavening agent. All the leavening agents claimed are well known in the art. It would have been obvious to one skilled in the art to use any known chemical leavening agent.

Claims 10,11,29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anfinzen in view of Haralampu et al.

Anfinzen does not disclose the type of resistant starch claimed.

Haralampu et al disclose a granular resistant starch; the starch is chemically modified. The resistant starch is used in a variety of food such as cookies, breads, brownies, snacks etc.. The resistant starch is characterized by a total fiber content in the range of from about 20-50% by weight. The starch is used in amounts ranging from about 1-15%. The starch is used in place of sugar, flour, and/or fat to lower calorie and fat content and the starch is used to increase fiber content (see col. 2 lines 53-64, col. 4, col. 6 lines 29-57).

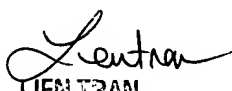
Anfinzen teaches resistant starch can be added as a non-digestible carbohydrate source. It would have been obvious to one skilled in the art to use the resistant starch taught by Haralampu et al to obtain the benefit taught by Haralampu et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cano Milton can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 22, 2005


LIEN TRAN
PRIMARY EXAMINER
